

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES C. SHERROD,

Plaintiff

vs.

**BOOKER T. WASHINGTON CENTER,
Defendant**

Civil Action No. C.A. 04 – 208 ERIE

**Magistrate Judge Susan Paradise
Baxter**

JURY TRIAL DEMANDED

MOTION TO AMEND PRETRIAL SCHEDULE

AND NOW, comes the Defendant, BOOKER T. WASHINGTON CENTER, by and through its attorneys, Quinn Buseck Leemhuis Toohey & Kroto, Inc., and the Plaintiff, James C. Sherrod, through his attorney, Edith Benson, and together submit the following Motion to Amend Pretrial Schedule.

1. The instant action was filed on July 21, 2004.
2. Pursuant to the Court's verbal direction following argument on Plaintiff's Motion to Compel Discovery and Impose Sanctions, the Defendant was to provide supplemental responses to certain Requests for Admission on or before July 5, 2005, which supplemental responses were provided on July 1, 2005.
3. Further, the Court directed that the three (3) following depositions be conducted, as noticed by the parties at that time. Specifically, the depositions of Sean Coleman and William Jeffres were to take place on June 22, 2005. The deposition of James C. Sherrod was to take place on or before July 5, 2005.

4. The Court then set September 9, 2005 as the filing deadline for Plaintiff's Pre-trial Narrative Statement, and September 29, 2005 for Defendant's, as well as for the filing of dispositive motions.

5. Due to the limited availability of the parties and counsel at that time, these depositions were postponed by mutual agreement.

6. The parties were able to complete the deposition of Sean Coleman on June 28, 2005, and the deposition of William Jeffres on July 27, 2005.

7. The deposition of the plaintiff, James C. Sherrod, was scheduled for July 29, 2005.

8. At the time of William Jeffres's deposition on July 27, 2005, however, it was apparent that Mr. Sherrod was unlikely to be available to sit for a deposition on July 29. As his counsel advised, he was suffering from a very painful back problem, for which he was (and remains) under a doctor's care. He was in obvious pain and discomfort throughout the day, and had extreme difficulty concentrating on the events of the day.

9. After taking prescription pain killers, Mr. Sherrod's pain seemed to decrease, but his attention span was very limited, and he dozed off several times.

10. On July 28, 2005, Attorney Benson advised that Mr. Sherrod would not sit for his deposition on July 29. Exhibit A.

11. Attorney Martinucci was in agreement with this because he was concerned with Mr. Sherrod's ability to understand and answer questions at that time.

12. Subsequently, Attorney Benson has kept Attorney Martinucci informed as to Mr. Sherrod's medical condition and treatment plan. Exhibits B and C.

13. At present, it does not appear that Mr. Sherrod will be immediately available for a deposition, but it is hoped that he will attain sufficient relief from injections to allow his deposition to be completed.

14. The parties agree that Mr. Sherrod's deposition is an essential part of this case and must be completed before the filing of pre-trial narrative statement or dispositive motions.

15. In order to complete this necessary task, the parties believe that it is appropriate and desirable to amend the current pre-trial schedule and to delay the filing of pre-trial narrative statements and/or dispositive motions by a period of sixty (60) days.

16. This is a joint motion. No party will be prejudiced by this amendment.

17. Therefore, it is respectfully requested that this Honorable Court amend the pre-trial schedule as follows

- a. Plaintiff's Pretrial Narrative Statement shall be filed by November 8, 2005;
- b. Defendants' Pretrial Narrative Statement shall be filed by November 28, 2005;
- c. Dispositive motions and supporting briefs shall be filed on or before November 28, 2005.
- d. Responses shall be filed by December 19, 2005.
- e. Any reply briefs shall be due on December 28, 2005.

18. The parties also request that the Court's Order specifically permit the taking of Mr. Sherrod's deposition on or before October 31, 2005, unless a further delay is required for documented medical reasons.

WHEREFORE, the parties respectfully and jointly request that this Honorable Court grant the instant motion.

Respectfully submitted,

QUINN, BUSECK, LEEMHUIS, TOOHEY
& KROTO, INC.

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